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10 Attorneys for United States Trustee
11 Tracy Hope Davis

12 UNITED STATES BANKRUPTCY COURT

13 DISTRICT OF NEVADA

14 In re:) Case no: BK-N-14-50331-BTB
15 AT EMERALD, LLC,) Chapter 11
16) US TRUSTEE'S MOTION TO
17) DESIGNATE CASE AS
18) SMALL BUSINESS CASE
19)
20) Hearing Date: July 30, 2014
21) Debtors,) Hearing Time: 10:00 a.m.
22)) Est. Time Req.: 15 min.

23 The United States Trustee (“US Trustee”), hereby submits her Motion To Designate Case
24 As Small Business Case (“Motion”), based upon 11 U.S.C. § 101(51)(C) and (D), and Federal
25 Rules of Bankruptcy Procedure (“FRBP”) 1020.

26 The US Trustee represents that:

- 27
- 28 1. The Debtor's aggregate debts are not more than \$2,490,925;
 - 29 2. The US Trustee has not appointed an unsecured creditors committee; and
 - 30 3. The Debtor's primary activity is not the business of owning or operating real
31 property.

This Motion is based upon the following points and authorities, together with the entire record in this case, of which the US Trustee respectfully requests the Court take judicial notice, and such evidence as may be introduced at the hearing on this motion.

POINTS AND AUTHORITIES

Pursuant to 28 U.S.C. § 586(a)(3), the US Trustee is charged with supervising the administration of cases and trustees under the Bankruptcy Code. To enable the US Trustee to carry out that duty, Congress has granted the US Trustee standing to raise and to “appear and be heard on any issue in any case or proceeding” brought under the Bankruptcy Code. 11 U.S.C. § 307. Pursuant to 28 U.S.C. § 586(a)(7), the US Trustee is instructed to review and monitor diligently small business cases.

A. Statement of Facts:

1. The Debtor filed voluntary bankruptcy under chapter 11 on March 4, 2014.
 - Docket #1.
 2. The Debtor's Summary Of Schedules lists its total debt at \$541,200. Docket #1, pg. 6.
 3. The Debtor's Statement of Financial Affairs states its "Nature Of Business" as "Holding Company". Docket #1, pg. 23.
 4. The Debtor's affiliate case, Anthony & Wendi Thomas, BK-N-14-50333-btb has total debt of \$1,262,568.94. Case No. 14-50333-btb, Docket #1, pg. 14.
 5. The US Trustee has not appointed an unsecured creditors committee.
 6. The 341 Hearing was concluded on March 31, 2014.

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B. Legal Authorities:

Section 101(51)(D) states:

The term “small business debtor” ... means a person engaged in commercial or business activities (... excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate non-contingent liquidated secured and unsecured debts as of the date of the filing of the petition or the date of the order for relief in an amount not more than \$2,490,925 ... for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors.

FRBP 1020(b) provides that the United States Trustee may object to the debtor's statement regarding being a small business debtor, if done within 30 days of the conclusion of the 341 Hearing, or within 30 days of any amendment.

C. Application of facts and legal authorities:

The Debtor's aggregate debts are not more than \$2,490,925, even when including the debt of the affiliate case. Docket #1, pg. 6; Case No. 14-50333-btb, Docket #1, pg. 14. The US Trustee has not appointed an unsecured creditors committee. The Debtor's "Nature Of Business" is "Holding Company", not the business of owning or operating real property. Docket #1, pg. 23. Therefore, the Debtor is a small business debtor.

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1 **CONCLUSION**

2 WHEREFORE, for all the reasons stated above, the US Trustee respectfully requests the
3 Court grant the US Trustee's Motion, order this case to be designated as a small business case,
4 and grant such other relief as the Court deems proper.

5 DATED this 30th day of April, 2014.
6

7 Respectfully submitted,

8 Nicholas Strozza
9 State Bar # CA 117234
10 William B. Cossitt
11 State Bar #3484
12 300 Booth Street, #3009
13 Reno NV 89509
14 (775) 784-5335

15 /s/ WILLIAM B. COSSITT

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17 Attorneys for United States Trustee
18 Tracy Hope Davis

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2 **CERTIFICATE OF SERVICE**
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4 1. On April 30, 2014, I served the foregoing US TRUSTEES MOTION TO DESIGNATE
5 CASE AS A SMALL BUSINESS CASE
6

7 2. I served the above-named document(by the following means to the persons as listed
8 below:
9

10 a. ECF System:
11

12 TIMOTHY A LUKAS ecflukast@hollandhart.com
13 ALAN R SMITH mail@asmithlaw.com
14 U.S. TRUSTEE - RN - 11 USTPRegion17.RE.ECF@usdoj.gov
15

16 b. U.S. Mail, postage fully prepaid:
17

18 AT EMERALD, LLC
19 7725 PEAVINE PEAK COURT
20 RENO, NV 89523
21

22 I declare under penalty of perjury that the foregoing is true and correct.
23

24 Signed: April 30, 2014.
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26 _____
27 /s/ Robbin Little
28 ROBBIN LITTLE
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